

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In Re

DEBRA P. MARIN,

Bankruptcy No. 12-23649  
Chapter 13

Debtors.

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**OPPOSITION TO THE TRUSTEE'S MOTION TO DISMISS**

The Opposition of Debra P. Marin, (hereinafter the "Debtor") acting by and through her attorneys, Clair & Gjertsen, Esqs. respectfully represent:

1. On or about September 17, 2012, the Debtor commenced her case by filing a voluntary petition for relief under Chapter 13, Title 11 of the United States Bankruptcy Code.
2. The Proof of Claims bar date was January 10, 2013. There were two claims, one secured claim in the amount of \$238,392.21 and the other a claim for \$253,307.91 which was bizarrely bifurcated by the Creditor, thereby making a claim of \$150,000.00 of that amount as secured.
3. The Debtor's Chapter 13 plan was filed on September 28, 2012, which calls for payments to the Trustee in the amount of \$675.00 per month for 5 years for a total of \$40,500.00.
4. As disclosed at the 341 Meeting of Creditors, Debtor's Chapter 13 plan is to be a 100 percent plan. Therefore, real estate appraisals are not required.
5. Additionally, Trustee's affidavit states that Loss Mitigation has been terminated.  
  
However, there has been no request for Loss Mitigation by the Debtor nor any Order for Loss Mitigation signed by the Court.
6. Finally, due to substantial issues with the Proof of Claim filed by the Estate of Ana Beatriz Marin, Debtor is preparing an Objection to the Proof of Claim. The basis of the

objection includes issues with the amount claimed as pre-petition arrears as well the amount sought for attorneys' fees and the Creditor's bifurcation of the debt.

7. Once the issues regarding the Estates proof of claim are resolved, debtor shall revise any schedules and the Plan as appropriate.
8. Upon information and belief, the Debtor is current with the Trustee and current with her post-petition payments to Creditor Estate of Ana Beatriz Marin.

**WHEREFORE**, it is respectfully request that that the Trustee's Motion to Dismiss be denied.

Dated: Scarsdale, NY  
February 26, 2013

CLAIR & GJERTSEN, ESQS.

/s/  
Patricia M. Lattanzio  
Attorneys for the Debtor  
720 White Plains Road, Suite 381  
Scarsdale, NY 10583  
(914) 472-6202